

## Subpart H—Definitions

### § 65.70 Definitions.

(a) *Law enforcement emergency*. The term *law enforcement emergency* is defined by the Act as an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which state and local resources are inadequate to protect the lives and property of citizens, or to enforce the criminal law. The Act specifically *excludes* the following situations when defining “law enforcement emergency”:

(1) The perceived need for planning or other activities related to crowd control for general public safety projects; and,

(2) A situation requiring the enforcement of laws associated with scheduled public events, including political convention and sports events.

(b) *Federal law enforcement assistance*. The term *Federal law enforcement assistance* is defined by the Act to mean funds, equipment, training, intelligence information, and personnel.

(c) *Federal law enforcement community*. The term *Federal law enforcement community* is defined by the Act as the heads of the following departments or agencies:

- (1) Federal Bureau of Investigation;
  - (2) Drug Enforcement Administration;
  - (3) Criminal Division of the Department of Justice;
  - (4) Internal Revenue Service;
  - (5) Customs Service;
  - (6) Department of Homeland Security;
  - (7) U.S. Marshals Service;
  - (8) National Park Service;
  - (9) U.S. Postal Service;
  - (10) Secret Service;
  - (11) U.S. Coast Guard;
  - (12) Bureau of Alcohol, Tobacco, Firearms, and Explosives;
  - (13) National Security Division of the Department of Justice; and
  - (14) Other Federal agencies with specific statutory authority to investigate violations of Federal criminal law.
- (d) *State*. The term *state* is defined by the Act as any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the

Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

[50 FR 51340, Dec. 16, 1985, as amended by Order No. 2865–2007, 72 FR 10069, Mar. 7, 2007]

## Subpart I—Immigration Emergency Fund

SOURCE: Order No. 1892–94, 59 FR 30522, June 14, 1994, unless otherwise noted.

### § 65.80 General.

The regulations of this subpart set forth procedures for implementing section 404(b) of the Immigration and Nationality Act (“INA”), 8 U.S.C. 1101 note, by providing for Presidential determinations of the existence of an immigration emergency, and for payments from the Immigration Emergency Fund or other funding available for such purposes, to State and local governments for assistance provided in meeting an immigration emergency. The regulations of this subpart also establish procedures by which the Attorney General may draw upon the Immigration Emergency Fund, without a Presidential determination that an immigration emergency exists, to provide funding to State and local governments for assistance provided as required by the Attorney General in certain specified circumstances.

[Order No. 1892–94, 59 FR 30522, June 14, 1994, as amended by Order No. 2601–2002, 67 FR 48359, July 24, 2002]

### § 65.81 General definitions.

As used in this part:

*Assistance* means any actions taken by a State or local government directly relating to aiding the Attorney General in the administration of the immigration laws of the United States and in meeting urgent demands arising from the presence of aliens in the State or local government’s jurisdiction, when such actions are taken to assist in meeting an immigration emergency or under any of the circumstances specified in section 404(b)(2)(A) of the INA. Assistance may include, but need not be limited to, the provision of large shelter facilities for the housing and screening of aliens, and, in connection

with these activities, the provision of such basic necessities as food, water, clothing, and health care.

*Immigration emergency* means an actual or imminent influx of aliens which either is of such magnitude or exhibits such other characteristics that effective administration of the immigration laws of the United States is beyond the existing capabilities of the Immigration and Naturalization Service ("INS") in the affected area or areas. Characteristics of an influx of aliens, other than magnitude, which may be considered in determining whether an immigration emergency exists include: the likelihood of continued growth in the magnitude of the influx; an apparent connection between the influx and increases in criminal activity; the actual or imminent imposition of unusual and overwhelming demands on law enforcement agencies; and other similar characteristics.

*Other circumstances* means a situation that, as determined by the Attorney General, requires the resources of a State or local government to ensure the proper administration of the immigration laws of the United States or to meet urgent demands arising from the presence of aliens in a State or local government's jurisdiction.

**§ 65.82 Procedure for requesting a Presidential determination of an immigration emergency.**

(a) The President may make a determination concerning the existence of an immigration emergency after review of a request from either the Attorney General of the United States or the chief executive of a State or local government. Such a request shall include a description of the facts believed to constitute an immigration emergency and the types of assistance needed to meet that emergency. Except when a request is made by the Attorney General, the requestor shall file the original application with the Office of the President and shall file copies of the application with the Attorney General and with the Commissioner of INS.

(b) If the President determines that an immigration emergency exists, the President shall certify that fact to the Judiciary Committees of the House of Representatives and of the Senate.

**§ 65.83 Assistance required by the Attorney General.**

The Attorney General may request assistance from a State or local government in the administration of the immigration laws of the United States or in meeting urgent demands where the need for assistance arises because of the presence of aliens in that State or local jurisdiction, and may provide funding to a State or local government relating to such assistance from the Immigration Emergency Fund or other funding available for such purposes, without a Presidential determination of an immigration emergency, in any of the following circumstances:

(a) An INS district director certifies to the Commissioner of INS, who shall, in turn, certify to the Attorney General, that the number of asylum applications filed in that INS district during the relevant calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter. For purposes of this paragraph, providing parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district.

(b) The Attorney General determines that there exist circumstances involving the administration of the immigration laws of the United States that endanger the lives, property, safety, or welfare of the residents of a State or locality.

(c) The Attorney General determines that there exist any other circumstances, as defined in § 65.81 of this subpart, such that it is appropriate to seek assistance from a State or local government in administering the immigration laws of the United States or in meeting urgent demands arising from the presence of aliens in a State or local jurisdiction.

(d)(1) If, in making a determination pursuant to paragraph (b) or (c) of this section, the Attorney General also determines that the situation involves an actual or imminent mass influx of aliens arriving off the coast or near a land border of the United States and presents urgent circumstances requiring an immediate Federal response, the Attorney General will formally declare that a mass influx of aliens is imminent or occurring. The determination